



General Assembly

February Session, 2002

**Amendment**

LCO No. 3124

\*HB0537103124HR0\*

Offered by:

REP. CAFERO, 142<sup>nd</sup> Dist.

REP. WARD, 86<sup>th</sup> Dist.

REP. FOX, 144<sup>th</sup> Dist.

REP. FARR, 19<sup>th</sup> Dist.

REP. DOYLE, 28<sup>th</sup> Dist.

To: Subst. House Bill No. 5371

File No. 121

Cal. No. 93

**"AN ACT CONCERNING OPERATING A MOTOR VEHICLE WHILE  
UNDER THE INFLUENCE OF INTOXICATING LIQUOR."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Section 14-227a of the general statutes, as amended by  
4 section 1 of public act 01-201, is repealed and the following is  
5 substituted in lieu thereof (*Effective July 1, 2002*):

6 (a) No person shall operate a motor vehicle while under the  
7 influence of intoxicating liquor or any drug or both. A person commits  
8 the offense of operating a motor vehicle while under the influence of  
9 intoxicating liquor or any drug or both if such person operates a motor  
10 vehicle on a public highway of this state or on any road of a district  
11 organized under the provisions of chapter 105, a purpose of which is

12 the construction and maintenance of roads and sidewalks, or on any  
13 private road on which a speed limit has been established in accordance  
14 with the provisions of section 14-218a, or in any parking area for ten or  
15 more cars or on any school property (1) while under the influence of  
16 intoxicating liquor or any drug or both, or (2) while such person has an  
17 elevated blood alcohol content. For the purposes of this section,  
18 "elevated blood alcohol content" means (A) a ratio of alcohol in the  
19 blood of such person that is [ten-hundredths] eight-hundredths of one  
20 per cent or more of alcohol, by weight, or (B) if such person has been  
21 convicted of a violation of this subsection, a ratio of alcohol in the  
22 blood of such person that is seven-hundredths of one per cent or more  
23 of alcohol, by weight.

24 (b) No person shall operate a motor vehicle on a public highway of  
25 this state or on any road of a district organized under the provisions of  
26 chapter 105, a purpose of which is the construction and maintenance of  
27 roads and sidewalks, or on any private road on which a speed limit  
28 has been established in accordance with the provisions of section  
29 14-218a, or in any parking area for ten or more cars or on any school  
30 property while such person's ability to operate such motor vehicle is  
31 impaired by the consumption of intoxicating liquor. A person shall be  
32 deemed impaired when at the time of the alleged offense the ratio of  
33 alcohol in the blood of such person was more than seven-hundredths  
34 of one per cent of alcohol, by weight, but less than [ten-hundredths]  
35 eight-hundredths of one per cent of alcohol, by weight.

36 (c) Except as provided in subsection (d) of this section, in any  
37 criminal prosecution for violation of subsection (a) or (b) of this  
38 section, evidence respecting the amount of alcohol or drug in the  
39 defendant's blood or urine at the time of the alleged offense, as shown  
40 by a chemical analysis of the defendant's breath, blood or urine shall  
41 be admissible and competent provided: (1) The defendant was  
42 afforded a reasonable opportunity to telephone an attorney prior to the  
43 performance of the test and consented to the taking of the test upon  
44 which such analysis is made; (2) a true copy of the report of the test  
45 result was mailed to or personally delivered to the defendant within

46 twenty-four hours or by the end of the next regular business day, after  
47 such result was known, whichever is later; (3) the test was performed  
48 by or at the direction of a police officer according to methods and with  
49 equipment approved by the Department of Public Safety and was  
50 performed in accordance with the regulations adopted under  
51 subsection (e) of this section; (4) the device used for such test was  
52 checked for accuracy in accordance with the regulations adopted  
53 under subsection (e) of this section; (5) an additional chemical test of  
54 the same type was performed at least thirty minutes after the initial  
55 test was performed or, if requested by the police officer for reasonable  
56 cause, an additional chemical test of a different type was performed to  
57 detect the presence of a drug or drugs other than or in addition to  
58 alcohol, provided the results of the initial test shall not be inadmissible  
59 under this subsection if reasonable efforts were made to have such  
60 additional test performed in accordance with the conditions set forth in  
61 this subsection and such additional test was not performed or was not  
62 performed within a reasonable time, or the results of such additional  
63 test are not admissible for failure to meet a condition set forth in this  
64 subsection; and (6) evidence is presented that the test was commenced  
65 within two hours of operation. In any prosecution under this section it  
66 shall be a rebuttable presumption that the results of such chemical  
67 analysis establish the ratio of alcohol in the blood of the defendant at  
68 the time of the alleged offense, except that if the results of the  
69 additional test indicate that the ratio of alcohol in the blood of such  
70 defendant is twelve-hundredths of one per cent or less of alcohol, by  
71 weight, and is higher than the results of the first test, evidence shall be  
72 presented that demonstrates that the test results and the analysis  
73 thereof accurately indicate the blood alcohol content at the time of the  
74 alleged offense.

75 (d) In any prosecution for a violation of subdivision (1) of  
76 subsection (a) of this section, reliable evidence respecting the amount  
77 of alcohol in the defendant's blood or urine at the time of the alleged  
78 offense, as shown by a chemical analysis of the defendant's blood,  
79 breath or urine, otherwise admissible under subsection (c) of this

80 section, shall be admissible only at the request of the defendant.

81 (e) The Commissioner of Public Safety shall ascertain the reliability  
82 of each method and type of device offered for chemical testing and  
83 analysis purposes of blood, of breath and of urine and certify those  
84 methods and types which said commissioner finds suitable for use in  
85 testing and analysis of blood, breath and urine, respectively, in this  
86 state. The Commissioner of Public Safety, in consultation with the  
87 Commissioner of Public Health shall adopt regulations, in accordance  
88 with chapter 54, governing the conduct of chemical tests, the operation  
89 and use of chemical test devices, the training and certification of  
90 operators of such devices and the drawing or obtaining of blood,  
91 breath or urine samples as said commissioner finds necessary to  
92 protect the health and safety of persons who submit to chemical tests  
93 and to insure reasonable accuracy in testing results. Such regulations  
94 shall not require recertification of a police officer solely because such  
95 officer terminates such officer's employment with the law enforcement  
96 agency for which certification was originally issued and commences  
97 employment with another such agency.

98 (f) In any criminal prosecution for a violation of subsection (a) or (b)  
99 of this section, evidence that the defendant refused to submit to a  
100 blood, breath or urine test requested in accordance with section  
101 14-227b, as amended by this act, shall be admissible provided the  
102 requirements of subsection (b) of said section have been satisfied. If a  
103 case involving a violation of subsection (a) of this section is tried to a  
104 jury, the court shall instruct the jury as to any inference that may or  
105 may not be drawn from the defendant's refusal to submit to a blood,  
106 breath or urine test.

107 (g) If a person is charged with a violation of the provisions of  
108 subsection (a) of this section, the charge may not be reduced, nolle or  
109 dismissed unless the prosecuting authority states in open court such  
110 prosecutor's reasons for the reduction, nolle or dismissal.

111 (h) Any person who violates any provision of subsection (a) of this

112 section shall: (1) For conviction of a first violation, (A) be fined not less  
113 than five hundred dollars nor more than one thousand dollars, and (B)  
114 be (i) imprisoned not more than six months, forty-eight consecutive  
115 hours of which may not be suspended or reduced in any manner, or  
116 (ii) imprisoned not more than six months, with the execution of such  
117 sentence of imprisonment suspended entirely and a period of  
118 probation imposed requiring as a condition of such probation that  
119 such person perform one hundred hours of community service, as  
120 defined in section 14-227e, and (C) have such person's motor vehicle  
121 operator's license or nonresident operating privilege suspended for  
122 one year; (2) for conviction of a second violation within ten years after  
123 a prior conviction for the same offense, (A) be fined not less than one  
124 thousand dollars nor more than four thousand dollars, (B) be  
125 imprisoned not more than two years, one hundred twenty consecutive  
126 days of which may not be suspended or reduced in any manner, and  
127 sentenced to a period of probation requiring as a condition of such  
128 probation that such person perform one hundred hours of community  
129 service, as defined in section 14-227e, and (C) have such person's  
130 motor vehicle operator's license or nonresident operating privilege  
131 suspended for three years or until the date of such person's twenty-  
132 first birthday, whichever is longer; and (3) for conviction of a third and  
133 subsequent violation within ten years after a prior conviction for the  
134 same offense, (A) be fined not less than two thousand dollars nor more  
135 than eight thousand dollars, (B) be imprisoned not more than three  
136 years, one year of which may not be suspended or reduced in any  
137 manner, and sentenced to a period of probation requiring as a  
138 condition of such probation that such person perform one hundred  
139 hours of community service, as defined in section 14-227e, and (C)  
140 have such person's motor vehicle operator's license or nonresident  
141 operating privilege permanently revoked upon such third offense. For  
142 purposes of the imposition of penalties for a second or third and  
143 subsequent offense pursuant to this subsection, a conviction under the  
144 provisions of subsection (a) of this section [14-227a] in effect on  
145 October 1, 1981, or as amended thereafter, a conviction under the  
146 provisions of either subdivision (1) or (2) of subsection (a) of this

147 section, a conviction under the provisions of section 53a-56b or 53a-60d  
148 or a conviction in any other state of any offense the essential elements  
149 of which are determined by the court to be substantially the same as  
150 subdivision (1) or (2) of subsection (a) of this section or section 53a-56b  
151 or 53a-60d, shall constitute a prior conviction for the same offense.

152 (i) Any person who violates subsection (b) of this section shall be  
153 fined not more than two hundred dollars.

154 (j) (1) Each court shall report each conviction under subsection (a) of  
155 this section to the Commissioner of Motor Vehicles, in accordance with  
156 the provisions of section 14-141. The commissioner shall suspend the  
157 motor vehicle operator's license or nonresident operating privilege of  
158 the person reported as convicted for the period of time required by  
159 subsection (h) of this section. (2) The motor vehicle operator's license  
160 or nonresident operating privilege of a person found guilty under  
161 subsection (a) of this section who is under eighteen years of age shall  
162 be suspended by the commissioner for the period of time set forth in  
163 subsection (h) of this section, or until such person attains the age of  
164 eighteen years, whichever period is longer. (3) The motor vehicle  
165 operator's license or nonresident operating privilege of a person found  
166 guilty under subsection (a) of this section who, at the time of the  
167 offense, was operating a motor vehicle in accordance with a special  
168 operator's permit issued pursuant to section 14-37a shall be suspended  
169 by the commissioner for twice the period of time set forth in subsection  
170 (h) of this section. (4) Whenever the motor vehicle operator's license of  
171 a person is suspended under subsection (h) of this section for  
172 conviction of a violation of subsection (a) of this section, the operator's  
173 license that is returned or reissued to such person by the  
174 Commissioner of Motor Vehicles upon completion of the period of  
175 suspension shall indicate on its reverse side that such person is an at-  
176 risk operator. For purposes of this subdivision, an "at-risk operator" is  
177 a person who has been convicted of a violation of subsection (a) of this  
178 section. (5) If an appeal of any conviction under subsection (a) of this  
179 section is taken, the suspension of the motor vehicle operator's license  
180 or nonresident operating privilege by the commissioner, in accordance

181 with this subsection, shall be stayed during the pendency of such  
182 appeal.

183 (k) In addition to any fine or sentence imposed pursuant to the  
184 provisions of subsection (h) of this section, the court may order such  
185 person to participate in an alcohol education and treatment program.

186 (l) Notwithstanding the provisions of subsection (c) of this section,  
187 evidence respecting the amount of alcohol or drug in the blood or  
188 urine of an operator of a motor vehicle involved in an accident who  
189 has suffered or allegedly suffered physical injury in such accident,  
190 which evidence is derived from a chemical analysis of a blood sample  
191 taken from or a urine sample provided by such person after such  
192 accident at the scene of the accident, while en route to a hospital or at a  
193 hospital, shall be competent evidence to establish probable cause for  
194 the arrest by warrant of such person for a violation of subsection (a) of  
195 this section and shall be admissible and competent in any subsequent  
196 prosecution thereof if: (1) The blood sample was taken or the urine  
197 sample was provided for the diagnosis and treatment of such injury;  
198 (2) if a blood sample was taken, the blood sample was taken in  
199 accordance with the regulations adopted under subsection (e) of this  
200 section; (3) a police officer has demonstrated to the satisfaction of a  
201 judge of the Superior Court that such officer has reason to believe that  
202 such person was operating a motor vehicle while under the influence  
203 of intoxicating liquor or drug or both and that the chemical analysis of  
204 such blood or urine sample constitutes evidence of the commission of  
205 the offense of operating a motor vehicle while under the influence of  
206 intoxicating liquor or drug or both in violation of subsection (a) of this  
207 section; and (4) such judge has issued a search warrant in accordance  
208 with section 54-33a, as amended, authorizing the seizure of the  
209 chemical analysis of such blood or urine sample. Such search warrant  
210 may also authorize the seizure of the medical records prepared by the  
211 hospital in connection with the diagnosis or treatment of such injury.

212 (m) If the court sentences a person convicted of a violation of  
213 subsection (a) of this section to a period of probation, the court may

214 require as a condition of such probation that such person participate in  
215 a victim impact panel program approved by the Court Support  
216 Services Division of the Judicial Department. Such victim impact panel  
217 program shall provide a nonconfrontational forum for the victims of  
218 alcohol-related or drug-related offenses and offenders to share  
219 experiences on the impact of alcohol-related or drug-related incidents  
220 in their lives. Such victim impact panel program shall be conducted by  
221 a nonprofit organization that advocates on behalf of victims of  
222 accidents caused by persons who operated a motor vehicle while  
223 under the influence of intoxicating liquor or any drug, or both. Such  
224 organization may assess a participation fee of not more than twenty-  
225 five dollars on any person required by the court to participate in such  
226 program.

227 Sec. 2. Section 14-227b of the general statutes is repealed and the  
228 following is substituted in lieu thereof (*Effective July 1, 2002*):

229 (a) Any person who operates a motor vehicle in this state shall be  
230 deemed to have given such person's consent to a chemical analysis of  
231 such person's blood, breath or urine and, if such person is a minor,  
232 such person's parent or parents or guardian shall also be deemed to  
233 have given their consent.

234 (b) If any such person, having been placed under arrest for  
235 operating a motor vehicle while under the influence of intoxicating  
236 liquor or any drug or both or while such person's ability to operate  
237 such motor vehicle is impaired by the consumption of intoxicating  
238 liquor, and thereafter, after being apprised of such person's  
239 constitutional rights, having been requested to submit to a blood,  
240 breath or urine test at the option of the police officer, having been  
241 afforded a reasonable opportunity to telephone an attorney prior to the  
242 performance of such test and having been informed that such person's  
243 license or nonresident operating privilege may be suspended in  
244 accordance with the provisions of this section if such person refuses to  
245 submit to such test or if such person submits to such test and the  
246 results of such test indicate that such person has an elevated blood



247 alcohol content, and that evidence of any such refusal shall be  
248 admissible in accordance with subsection (f) of section 14-227a, as  
249 amended by this act, and may be used against such person in any  
250 criminal prosecution, refuses to submit to the designated test, the test  
251 shall not be given; provided, if the person refuses or is unable to  
252 submit to a blood test, the police officer shall designate the breath or  
253 urine test as the test to be taken. The police officer shall make a  
254 notation upon the records of the police department that such officer  
255 informed the person that such person's license or nonresident  
256 operating privilege may be suspended if such person refused to submit  
257 to such test or if such person submitted to such test and the results of  
258 such test indicated that such person had an elevated blood alcohol  
259 content.

260 (c) If the person arrested refuses to submit to such test or analysis or  
261 submits to such test or analysis, commenced within two hours of the  
262 time of operation, and the results of such test or analysis indicate that  
263 such person has an elevated blood alcohol content, the police officer,  
264 acting on behalf of the Commissioner of Motor Vehicles, shall  
265 immediately revoke and take possession of the motor vehicle  
266 operator's license or, if such person is a nonresident, suspend the  
267 nonresident operating privilege of such person, for a twenty-four-hour  
268 period and shall issue a temporary operator's license or nonresident  
269 operating privilege to such person valid for the period commencing  
270 twenty-four hours after issuance and ending thirty days after the date  
271 such person received notice of such person's arrest by the police  
272 officer. The police officer shall prepare a written report of the incident  
273 and shall mail the report together with a copy of the completed  
274 temporary license form, any operator's license taken into possession  
275 and a copy of the results of any chemical test or analysis to the  
276 Department of Motor Vehicles within three business days. The report  
277 shall be made on a form approved by the Commissioner of Motor  
278 Vehicles and shall be subscribed and sworn to under penalty of false  
279 statement as provided in section 53a-157b by the arresting officer. If  
280 the person arrested refused to submit to such test or analysis, the

281 report shall be endorsed by a third person who witnessed such refusal.  
282 The report shall set forth the grounds for the officer's belief that there  
283 was probable cause to arrest such person for operating a motor vehicle  
284 while under the influence of intoxicating liquor or any drug or both or  
285 while such person's ability to operate such motor vehicle is impaired  
286 by the consumption of intoxicating liquor, and shall state that such  
287 person had refused to submit to such test or analysis when requested  
288 by such police officer to do so or that such person submitted to such  
289 test or analysis, commenced within two hours of the time of operation,  
290 and the results of such test or analysis indicated that such person had  
291 an elevated blood alcohol content.

292 (d) If the person arrested submits to a blood or urine test at the  
293 request of the police officer, and the specimen requires laboratory  
294 analysis in order to obtain the test results, the police officer shall not  
295 take possession of the motor vehicle operator's license of such person  
296 or, except as provided in this subsection, follow the procedures  
297 subsequent to taking possession of the operator's license as set forth in  
298 subsection (c) of this section. If the test results indicate that such  
299 person has an elevated blood alcohol content, the police officer,  
300 immediately upon receipt of the test results, shall notify the  
301 Commissioner of Motor Vehicles and submit to the commissioner the  
302 written report required pursuant to subsection (c) of this section.

303 (e) Upon receipt of such report, the Commissioner of Motor Vehicles  
304 may suspend any license or nonresident operating privilege of such  
305 person effective as of a date certain, which date shall be not later than  
306 thirty days after the date such person received notice of such person's  
307 arrest by the police officer. Any person whose license or operating  
308 privilege has been suspended in accordance with this subsection shall  
309 automatically be entitled to a hearing before the commissioner to be  
310 held prior to the effective date of the suspension. The commissioner  
311 shall send a suspension notice to such person informing such person  
312 that such person's operator's license or nonresident operating privilege  
313 is suspended as of a date certain and that such person is entitled to a  
314 hearing prior to the effective date of the suspension and may schedule

315 such hearing by contacting the Department of Motor Vehicles not later  
316 than seven days after the date of mailing of such suspension notice.

317 (f) If such person does not contact the department to schedule a  
318 hearing, the commissioner shall affirm the suspension contained in the  
319 suspension notice for the appropriate period specified in subsection (i)  
320 of this section.

321 (g) If such person contacts the department to schedule a hearing, the  
322 department shall assign a date, time and place for the hearing, which  
323 date shall be prior to the effective date of the suspension. At the  
324 request of such person or the hearing officer and upon a showing of  
325 good cause, the commissioner may grant one continuance for a period  
326 not to exceed fifteen days. If a continuance is granted, the  
327 commissioner shall extend the validity of the temporary operator's  
328 license or nonresident operating privilege issued pursuant to  
329 subsection (c) of this section for a period not to exceed the period of  
330 such continuance. The hearing shall be limited to a determination of  
331 the following issues: (1) Did the police officer have probable cause to  
332 arrest the person for operating a motor vehicle while under the  
333 influence of intoxicating liquor or drug or both or while such person's  
334 ability to operate such motor vehicle was impaired by the  
335 consumption of intoxicating liquor; (2) was such person placed under  
336 arrest; (3) did such person refuse to submit to such test or analysis or  
337 did such person submit to such test or analysis, commenced within  
338 two hours of the time of operation, and the results of such test or  
339 analysis indicated that such person had an elevated blood alcohol  
340 content; and (4) was such person operating the motor vehicle. In the  
341 hearing, the results of the test or analysis shall be sufficient to indicate  
342 the ratio of alcohol in the blood of such person at the time of operation,  
343 except that if the results of the additional test indicate that the ratio of  
344 alcohol in the blood of such person is twelve-hundredths of one per  
345 cent or less of alcohol, by weight, and is higher than the results of the  
346 first test, evidence shall be presented that demonstrates that the test  
347 results and analysis thereof accurately indicate the blood alcohol  
348 content at the time of operation. The fees of any witness summoned to

349 appear at the hearing shall be the same as provided by the general  
350 statutes for witnesses in criminal cases.

351 (h) If, after such hearing, the commissioner finds on any one of the  
352 said issues in the negative, the commissioner shall reinstate such  
353 license or operating privilege. If, after such hearing, the commissioner  
354 does not find on any one of the said issues in the negative or if such  
355 person fails to appear at such hearing, the commissioner shall affirm  
356 the suspension contained in the suspension notice for the appropriate  
357 period specified in subsection (i) of this section. The commissioner  
358 shall render a decision at the conclusion of such hearing or send a  
359 notice of the decision by bulk certified mail to such person not later  
360 than thirty days or, if a continuance is granted, not later than forty-five  
361 days from the date such person received notice of such person's arrest  
362 by the police officer. The notice of such decision sent by certified mail  
363 to the address of such person as shown by the records of the  
364 commissioner shall be sufficient notice to such person that such  
365 person's operator's license or nonresident operating privilege is  
366 reinstated or suspended, as the case may be. Unless a continuance of  
367 the hearing is granted pursuant to subsection (g) of this section, if the  
368 commissioner fails to render a decision within thirty days from the  
369 date such person received notice of such person's arrest by the police  
370 officer, the commissioner shall reinstate such person's operator's  
371 license or nonresident operating privilege, provided notwithstanding  
372 such reinstatement the commissioner may render a decision not later  
373 than two days thereafter suspending such operator's license or  
374 nonresident operating privilege.

375 (i) The commissioner shall suspend the operator's license or  
376 nonresident operating privilege, and revoke the temporary operator's  
377 license or nonresident operating privilege issued pursuant to  
378 subsection (c) of this section, of a person who did not contact the  
379 department to schedule a hearing, who failed to appear at a hearing or  
380 against whom, after a hearing, the commissioner held pursuant to  
381 subsection (h) of this section, as of the effective date contained in the  
382 suspension notice or the date the commissioner renders a decision,

383   whichever is later, for a period of: (1) (A) Except as provided in  
384   subparagraph (B) of this subdivision, ninety days, if such person  
385   submitted to a test or analysis and the results of such test or analysis  
386   indicated that such person had an elevated blood alcohol content, (B)  
387   one hundred twenty days, if such person submitted to a test or  
388   analysis and the results of such test or analysis indicated that the ratio  
389   of alcohol in the blood of such person was sixteen-hundredths of one  
390   per cent or more of alcohol, by weight, or (C) six months if such person  
391   refused to submit to such test or analysis, (2) if such person has  
392   previously had such person's operator's license or nonresident  
393   operating privilege suspended under this section, (A) except as  
394   provided in subparagraph (B) of this subdivision, nine months if such  
395   person submitted to a test or analysis and the results of such test or  
396   analysis indicated that such person had an elevated blood alcohol  
397   content, (B) ten months if such person submitted to a test or analysis  
398   and the results of such test or analysis indicated that the ratio of  
399   alcohol in the blood of such person was sixteen-hundredths of one per  
400   cent or more of alcohol, by weight, and (C) one year if such person  
401   refused to submit to such test or analysis, and (3) if such person has  
402   two or more times previously had such person's operator's license or  
403   nonresident operating privilege suspended under this section, (A)  
404   except as provided in subparagraph (B) of this subdivision, two years  
405   if such person submitted to a test or analysis and the results of such  
406   test or analysis indicated that such person had an elevated blood  
407   alcohol content, (B) two and one-half years if such person submitted to  
408   a test or analysis and the results of such test or analysis indicated that  
409   the ratio of alcohol in the blood of such person was sixteen-hundredths  
410   of one per cent or more of alcohol, by weight, and (C) three years if  
411   such person refused to submit to such test or analysis.

412   (j) Notwithstanding the provisions of subsections (b) to (i),  
413   inclusive, of this section, any police officer who obtains the results of a  
414   chemical analysis of a blood sample taken from an operator of a motor  
415   vehicle involved in an accident who suffered or allegedly suffered  
416   physical injury in such accident shall notify the Commissioner of

417 Motor Vehicles and submit to the commissioner a written report if  
418 such results indicate that such person had an elevated blood alcohol  
419 content, and if such person was arrested for violation of section  
420 14-227a, as amended by this act, in connection with such accident. The  
421 report shall be made on a form approved by the commissioner  
422 containing such information as the commissioner prescribes, and shall  
423 be subscribed and sworn to under penalty of false statement, as  
424 provided in section 53a-157b, by the police officer. The commissioner  
425 may, after notice and an opportunity for hearing, which shall be  
426 conducted in accordance with chapter 54, suspend the motor vehicle  
427 operator's license or nonresident operating privilege of such person for  
428 a period of up to ninety days, or, if such person has previously had  
429 such person's operator's license or nonresident operating privilege  
430 suspended under this section for a period of up to one year. Each  
431 hearing conducted under this subsection shall be limited to a  
432 determination of the following issues: (1) Whether the police officer  
433 had probable cause to arrest the person for operating a motor vehicle  
434 while under the influence of intoxicating liquor or drug or both or  
435 while the person's ability to operate the motor vehicle was impaired by  
436 the consumption of intoxicating liquor; (2) whether such person was  
437 placed under arrest; (3) whether such person was operating the motor  
438 vehicle; (4) whether the results of the analysis of the blood of such  
439 person indicate that such person had an elevated blood alcohol  
440 content; and (5) whether the blood sample was obtained in accordance  
441 with conditions for admissibility and competence as evidence as set  
442 forth in subsection (l) of section 14-227a, as amended by this act. If,  
443 after such hearing, the commissioner finds on any one of the said  
444 issues in the negative, the commissioner shall not impose a suspension.  
445 The fees of any witness summoned to appear at the hearing shall be  
446 the same as provided by the general statutes for witnesses in criminal  
447 cases, as provided in section 52-260, as amended.

448 (k) The provisions of this section shall apply with the same effect to  
449 the refusal by any person to submit to an additional chemical test as  
450 provided in subdivision (5) of subsection (c) of section 14-227a, as

451 amended by this act.

452 (l) The provisions of this section shall not apply to any person  
453 whose physical condition is such that, according to competent medical  
454 advice, such test would be inadvisable.

455 (m) The state shall pay the reasonable charges of any physician who,  
456 at the request of a municipal police department, takes a blood sample  
457 for purposes of a test under the provisions of this section.

458 (n) For the purposes of this section, "elevated blood alcohol content"  
459 means (1) a ratio of alcohol in the blood of such person that is [ten-  
460 hundredths] eight-hundredths of one per cent or more of alcohol, by  
461 weight, (2) if such person has been convicted of a violation of  
462 subsection (a) of section 14-227a, a ratio of alcohol in the blood of such  
463 person that is seven-hundredths of one per cent or more of alcohol, by  
464 weight, or (3) if such person is under twenty-one years of age, a ratio  
465 of alcohol in the blood of such person that is two-hundredths of one  
466 per cent or more of alcohol, by weight.

467 (o) The Commissioner of Motor Vehicles shall adopt regulations in  
468 accordance with chapter 54 to implement the provisions of this section.

469 Sec. 3. Section 14-227c of the general statutes is repealed and the  
470 following is substituted in lieu thereof (*Effective July 1, 2002*):

471 As part of the investigation of any motor vehicle accident resulting  
472 in a fatality, the Chief Medical Examiner, Deputy Chief Medical  
473 Examiner, an associate medical examiner, a pathologist as specified in  
474 section 19a-405, or an authorized assistant medical examiner, as the  
475 case may be, shall order that a blood sample be taken from the body of  
476 any operator or pedestrian who dies as a result of such accident. Such  
477 blood samples shall be examined for the presence and concentration of  
478 alcohol by the Division of Scientific Services within the Department of  
479 Public Safety or by the Office of the Chief Medical Examiner. To the  
480 extent provided by law, a blood or breath sample may also be obtained  
481 from any surviving operator whose motor vehicle is involved in such

482 an accident. The test shall be performed by or at the direction of a  
483 police officer according to methods and with equipment approved by  
484 the Department of Public Safety and shall be performed by a person  
485 certified or recertified for such purpose by said department or  
486 recertified by persons certified as instructors by the Commissioner of  
487 Public Safety. The equipment used for such test shall be checked for  
488 accuracy by a person certified by the Department of Public Safety  
489 immediately before and after such test is performed. If a blood test is  
490 performed, it shall be on a blood sample taken by a person licensed to  
491 practice medicine and surgery in this state, a qualified laboratory  
492 technician, an emergency medical technician II, a registered nurse or a  
493 phlebotomist. [, as defined in subsection (m) of section 14-227a.] The  
494 blood samples obtained from the surviving operator shall be examined  
495 for the presence and concentration of alcohol by the Division of  
496 Scientific Services within the Department of Public Safety. Nothing in  
497 this section or section 19a-406 shall be construed as requiring such  
498 medical examiner to perform an autopsy in connection with obtaining  
499 such blood samples.

500 Sec. 4. Section 54-56g of the general statutes, as amended by sections  
501 2 and 3 of public act 01-201 and section 9 of public act 01-8 of the June  
502 special session, is repealed and the following is substituted in lieu  
503 thereof (*Effective July 1, 2002*):

504 (a) There shall be a pretrial alcohol education system for persons  
505 charged with a violation of section 14-227a, as amended by this act, or  
506 14-227g. Upon application by any such person for participation in such  
507 system and payment to the court of an application fee of fifty dollars  
508 and a nonrefundable evaluation fee of one hundred dollars, the court  
509 shall, but only as to the public, order the court file sealed, provided  
510 such person states under oath, in open court or before any person  
511 designated by the clerk and duly authorized to administer oaths,  
512 under penalties of perjury that: (1) If such person is charged with a  
513 violation of section 14-227a, as amended by this act, such person has  
514 [never] not had such system invoked in such person's behalf [and that]  
515 within the preceding ten years for a violation of section 14-227a, as



516 amended by this act, (2) if such person is charged with a violation of  
517 section 14-227g, such person has never had such system invoked in  
518 such person's behalf for a violation of section 14-227a, as amended by  
519 this act, or 14-227g, (3) such person has not been convicted of a  
520 violation of section 53a-56b or 53a-60d, a violation of subsection (a) of  
521 section 14-227a, as amended by this act, before or after October 1, 1981,  
522 or a violation of subdivision (1) or (2) of subsection (a) of section  
523 14-227a, as amended by this act, on or after October 1, 1985, and [that]  
524 (4) such person has not been convicted in any other state at any time of  
525 an offense the essential elements of which are substantially the same as  
526 section 53a-56b or 53a-60d or subdivision (1) or (2) of subsection (a) of  
527 section 14-227a, as amended by this act. Unless good cause is shown, a  
528 person shall be ineligible for participation in such pretrial alcohol  
529 education system if such person's alleged violation of section 14-227a,  
530 as amended by this act, or 14-227g caused the serious physical injury,  
531 as defined in section 53a-3, as amended, of another person. The fee  
532 imposed by this subsection shall be credited to the Criminal Injuries  
533 Compensation Fund established by section 54-215.

534 (b) The court, after consideration of the recommendation of the  
535 state's attorney, assistant state's attorney or deputy assistant state's  
536 attorney in charge of the case, may, in its discretion, grant such  
537 application. If the court grants such application, it shall refer such  
538 person to the Bail Commission for assessment and confirmation of the  
539 eligibility of the applicant and to the Department of Mental Health and  
540 Addiction Services for evaluation. The Bail Commission, in making its  
541 assessment and confirmation, may rely on the representations made by  
542 the applicant under oath in open court with respect to convictions in  
543 other states of offenses specified in subsection (a) of this section. Upon  
544 confirmation of eligibility and receipt of the evaluation report, the  
545 defendant shall be referred to the Department of Mental Health and  
546 Addiction Services by the Bail Commission for [evaluation and]  
547 placement in an appropriate alcohol intervention program for one  
548 year. Any person who enters the system shall agree: (1) To the tolling  
549 of the statute of limitations with respect to such crime, (2) to a waiver

550 of such person's right to a speedy trial, (3) to [participate in at least]  
551 complete ten or fifteen counseling sessions in an alcohol intervention  
552 program pursuant to this section [or, if such person was charged with  
553 a violation of subdivision (2) of subsection (a) of section 14-227a, where  
554 the ratio of alcohol in the blood of such person was sixteen-hundredths  
555 of one per cent or more of alcohol, by weight, to participate in at least  
556 fifteen counseling sessions in an alcohol program pursuant to this  
557 section, and complete the assigned program] dependent upon the  
558 evaluation report and the court order, (4) to accept placement in a  
559 treatment program upon recommendation of a provider under  
560 contract with the Department of Mental Health and Addiction Services  
561 pursuant to subsection (d) of this section or placement in a treatment  
562 program which has standards substantially similar to, or higher than, a  
563 program of a provider under contract with the Department of Mental  
564 Health and Addiction Services if the Bail Commission deems it  
565 appropriate, and (5) if ordered by the court, to participate in at least  
566 one victim impact panel. The suspension of the motor vehicle  
567 operator's license of any such person pursuant to section 14-227b, as  
568 amended by this act, shall be effective during the period such person is  
569 participating in such program, provided such person shall have the  
570 option of not commencing the participation in such program until the  
571 period of such suspension is completed. If the Bail Commission  
572 informs the court that the defendant is ineligible for the system and the  
573 court makes a determination of ineligibility or if the program provider  
574 certifies to the court that the defendant did not successfully complete  
575 the assigned program or is no longer amenable to treatment, the court  
576 shall order the court file to be unsealed, enter a plea of not guilty for  
577 such defendant and immediately place the case on the trial list. If such  
578 defendant satisfactorily completes the assigned program, such  
579 defendant may apply for dismissal of the charges against such  
580 defendant and the court, on reviewing the record of the defendant's  
581 participation in such program submitted by the Bail Commission and  
582 on finding such satisfactory completion, shall dismiss the charges. If  
583 the defendant does not apply for dismissal of the charges against such  
584 defendant after satisfactorily completing the assigned program the

585 court, upon receipt of the record of the defendant's participation in  
586 such program submitted by the Bail Commission, may on its own  
587 motion make a finding of such satisfactory completion and dismiss the  
588 charges. Upon motion of the defendant and a showing of good cause,  
589 the court may extend the one-year placement period for a reasonable  
590 period for the defendant to complete the assigned program. A record  
591 of participation in such program shall be retained by the Bail  
592 Commission for a period of seven years from the date of application.  
593 The Bail Commission shall transmit to the Department of Motor  
594 Vehicles a record of participation in such program for each person who  
595 satisfactorily completes such program. The Department of Motor  
596 Vehicles shall maintain for a period of seven years the record of a  
597 person's participation in such program as part of such person's driving  
598 record.

599 (c) At the time the court grants the application for participation in  
600 the pretrial alcohol education system, such person shall also pay to the  
601 court a nonrefundable program fee of [four] three hundred twenty-five  
602 dollars [or, if such person was charged with a violation of subdivision  
603 (2) of subsection (a) of section 14-227a, where the ratio of alcohol in the  
604 blood of such person was sixteen-hundredths of one per cent or more  
605 of alcohol, by weight, a nonrefundable program fee of six hundred  
606 dollars] if such person is ordered to participate in the ten-session  
607 program and a nonrefundable program fee of five hundred dollars if  
608 such person is ordered to participate in the fifteen-session program,  
609 except that no person may be excluded from such program for  
610 inability to pay such fee, provided (1) such person files with the court  
611 an affidavit of indigency or inability to pay, (2) such indigency is  
612 confirmed by the Bail Commission, and (3) the court enters a finding  
613 thereof. If the court denies the application, such person shall not be  
614 required to pay the program fee. If the court grants the application,  
615 and such person is later determined to be ineligible for participation in  
616 such pretrial alcohol education system or fails to complete the assigned  
617 program, the program fee shall not be refunded. All such evaluation  
618 and program fees shall be credited to the pretrial account.

619 (d) The Department of Mental Health and Addiction Services shall  
620 contract with service providers, develop standards and oversee  
621 appropriate alcohol programs to meet the requirements of this section.  
622 Said department shall adopt regulations in accordance with chapter 54  
623 to establish standards for such alcohol programs. Any defendant  
624 whose employment or residence makes it unreasonable to attend an  
625 alcohol program in this state may attend a program in another state  
626 which has standards substantially similar to, or higher than, those of  
627 this state, subject to the approval of the court and payment of the  
628 application, evaluation and program fees as provided in this section.

629 (e) The court may, as a condition of granting such application,  
630 require that such person participate in a victim impact panel program  
631 approved by the Court Support Services Division of the Judicial  
632 Department. Such victim impact panel program shall provide a  
633 nonconfrontational forum for the victims of alcohol-related or drug-  
634 related offenses and offenders to share experiences on the impact of  
635 alcohol-related or drug-related incidents in their lives. Such victim  
636 impact panel program shall be conducted by a nonprofit organization  
637 that advocates on behalf of victims of accidents caused by persons who  
638 operated a motor vehicle while under the influence of intoxicating  
639 liquor or any drug, or both. Such organization may assess a  
640 participation fee of not more than twenty-five dollars on any person  
641 required by the court to participate in such program."

This act shall take effect as follows:	
Section 1	<i>July 1, 2002</i>
Sec. 2	<i>July 1, 2002</i>
Sec. 3	<i>July 1, 2002</i>
Sec. 4	<i>July 1, 2002</i>